

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

B. J. TIDWELL INDUSTRIES, INC.	§	
d/b/a CARDELL KITCHEN &	§	
BATH CABINERY,	§	
 Plaintiff/Counter-Defendant,	§	
 v.	§	CIVIL ACTION NO.
 DIVERSIFIED HOME PRODUCTS, INC.,	§	 SA-06-CA-0264 FB (NN)
JIM HINDMAN and	§	
IRENE CUELLAR,	§	
 Defendants/Counter-Plaintiffs.	§	

ORDER DENYING MOTION FOR LEAVE TO AMEND

The matter before the Court is defendants' motion for leave to amend (docket entry 53) and plaintiffs' opposition thereto (docket entry 58).

Federal Rule of Civil Procedure 15(a) provides authority for allowing amendments of pleadings, and directs that leave to amend shall be freely granted when justice so requires. The operative scheduling Order directed that amendments were due by July 24, 2006 (docket entry 22). This motion for leave to amend was filed over 10 months after the expiration of the deadline. Rule 6(b) allows out of time requests for extensions of deadlines but only upon a showing of excusable neglect.

There is nothing in defendants' motion which supports a finding of excusable neglect. Further, Judge Biery's order allowing the motion to withdraw counsel modified some of the deadlines (not including the deadline to amend pleadings), and specifically stated that all other

provisions of the original scheduling Order (docket entry 22) would remain in full force and effect with the Court disinclined to grant further extensions due to a change in defendants' representation.

For these reasons, the motion for leave to amend is ORDERED DENIED.

SIGNED on June 20, 2007.

Nancy Stein Nowak
NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE